

SECRET

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D.C. 20505

NIC #2199-83
21 March 1983

National Intelligence Council

MEMORANDUM FOR: Director of Central Intelligence
Deputy Director of Central Intelligence

THROUGH: Acting Chairman, National Intelligence Council

FROM: Maurice C. Ernst, NIO/Economics

SUBJECT: NSC Meeting on Renewal of the Export Administration Act

1. The purpose of the 22 March NSC meeting is to decide on three main issues concerning revision of the Export Administration Act before the Administration's draft of the Act is presented to Congress. These issues are: sanctity of contracts; new authority for imposing US import controls on foreign nations which do not abide by US foreign security export controls; and new authority for import controls on companies which are in violation of either national security controls alone or national security, foreign policy, and short supply controls. These issues are the only ones on which an interagency consensus could not be achieved from a much larger number which were identified when the policy review process was initiated. The three issues are summarized in Attachment A. An earlier options paper which covered all the initial issues is Attachment B.

2. The process of developing the Administration's position on renewal of the Export Administration Act has involved the balancing of the following considerations:

- o A desire to minimize the damage export controls do to the competitive position of US business.
- o A desire to minimize damage to our relations with our Allies.
- o A concern for protection of Presidential and Executive Branch powers.

3. There have been strong pressures on the Administration from business groups and demarches from foreign governments and the European Community to ease export controls, although in different ways. Several bills to revise the Act, mostly reflecting US business interests, are pending in Congress. Although there has been at least a near consensus within the Administration that it is possible to live with the present Act,

SECRET

SECRET

some have suggested that attempts to strengthen Executive authority might be tactically useful in order to counteract the predominant pressures to weaken it.

Issue One

4. The "contract sanctity" issue has been hotly debated in the SIG-IEP and other groups. US business feels strongly that the power to override existing contracts is a serious problem and that there is no reason to treat industrial goods differently from agricultural products. The contrary view, which is held by both State and Defense, holds that excluding existing contracts from export controls would excessively limit Presidential authority and flexibility. Secretary Shultz, although favoring retention of existing Presidential authority, believes that the Administration should make clear that it will use its powers only for very serious reasons.

Issue Two

5. Commerce and Defense, as well as substantial business groups, favor new authority to impose import controls on foreign countries which were violating foreign policy export controls because it would strengthen the President's hand and result in more equitable burden sharing among the members of the Alliance. State and most other agencies are against it because of the potential damage to our relations with our Allies and the likely inconsistency with agreements under GATT.

Issue Three

6. Authority to impose import controls as a penalty against countries that violate COCOM or US export controls--with options to apply this provision only to national security controls, or also to foreign policy and short supply controls.

The arguments are similar to those under Issue Two.

7. Comment: There is little doubt that the addition of import control authority on either national security or foreign policy grounds would be very badly received by our Allies and would give public prominence to contentious issues, such as extraterritoriality, at a time when we are trying to build an Alliance consensus on East-West economic relations, INF, and other key Alliance questions. Indeed, there is a possibility that raising such issues would result in less cooperation from the Alliance, for example on COCOM, than would otherwise be the case.

8. What would create the problem is probably not so much the added authority the President would gain as the implication that the US is insisting on the principle of extraterritoriality in the face of the strong European reaction during the pipeline sanctions. The Allies almost

SECRET

certainly would consider such an initiative to cast serious doubt as to the willingness of the US to approach East-West economic relations on a cooperative basis.



Maurice C. Ernst

for

25X1

Attachments:
As stated

NIC #2199-83
21 March 1983

SUBJECT: NSC Meeting on Renewal of the Export Administration Act

DCI/NIC/NIC/Econ:M.Ernst:bha(21 March 83)

25X1

Dist:

Orig - DCI
1 - DDCI
1 - ExDir
1 - DCI/SA/IA
1 - ER
1 - C/NIC
1 - VC/NIC
2 - NIO/Econ
1 - [redacted] TTAC/OSWR
1 - NIO/WE

25X1